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IN THE

Supreme Court of the United States

October Term, 1964

No. 146

MORTIMER W. H. COX, Administrator of the Estate of Leona A. Jackson, Deceased,
Petitioner

v.

ARTHUR C. HECKER,
Respondent

MORTIMER W. H. COX, Administrator of the Estate of Leona A. Jackson, Deceased,
Petitioner

v.

ELEANORE R. WRIGHT, also known as ELEANORE R. HECKER,
Respondent

PETITION FOR REHEARING

Sur Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

ROBERT F. JACKSON
202 County Building
South Avenue and Front Street
Media, Pa.
Attorney for Petitioner

THE LEGAL INTELLIGENCER, 10 S. 37TH ST., PHILA. 19104

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PETITION FOR REHEARING

To the Honorable the Justices of the said Court:

The petition of MORTIMER W. H. COX respectfully represents that:

1. These cases involved permanent brain damage done to the Wife of the undersigned writer of this petition, resulting from prolonged over-administration of a drug upon prescriptions by unlicensed persons who were under the supervision of defendant doctors and who were prohibited by law to prescribe the drug.

2. By order, on October 12, 1964, this Court refused to grant the writ of certiorari prayed for in this cause.

3. The petition for certiorari herein (a) raised the question of the unconstitutionality of the Pennsylvania decisional rule of evidence which presumes to require so-called expert medical testimony to show negligence of a doctor in the way of his professional acts where injury results to a person under his care, in that the rule denies due process, equal protection and trial by jury, and (b) asserted that the rule, which was here applied, for all practical purposes cloaks the entire medical profession with an effective immunity denied to all other persons and therefore imposes a correspondingly unreasonable burden on a plaintiff's remedy because of the practical impossibility of obtaining doctor against doctor evidence.

4. The result of the writer's research indicates that the rule mentioned in paragraph 3 hereof, which was applied in this cause, is also applied in all but two states (in which statutes have abrogated it) and, since the federal courts follow the law as announced by the state courts, it seems unlikely that divergent decisions in federal Courts of Appeal will be rendered.

WHEREFORE your petitioner prays that this Court grant a rehearing.

AND he will ever pray &c.

ROBERT F. JACKSON
Attorney for Petitioner

Pursuant to Rule 58, I hereby certify that the foregoing petition is presented in good faith and not for delay and is restricted to the grounds specified in the rule, the ground stated in paragraph 4 hereof not having been presented originally.

ROBERT F. JACKSON
Attorney for Petitioner